

1 he was under the impression that the stock that was issued  
2 to STV Reading, Inc. was controlled by people who were not  
3 Dr. Aurandt, who were in a position to give Mr. Parker their  
4 proxy so that he could elect himself president and vote the  
5 stock at the meeting, which he did.

6 MR. PARKER: Your Honor, that wasn't my testimony.

7 THE COURT: What part of what he said is wrong?

8 MR. PARKER: The part that first of all, I thought  
9 that they controlled or owned STV Reading, Inc. 100 percent.

10 First of all, the way that the STV Reading stock  
11 came into existence was Dr. Aurandt cast a ballot as  
12 president of STV Reading, Inc. electing to take shares in  
13 the company rather than ten cents on the dollar. That was  
14 my testimony either yesterday or the day before. That's how  
15 the shares came into being.

16 I was aware --

17 THE COURT: When you say "the shares", you mean  
18 the shares of Reading, Inc. that went to STV Reading, Inc.?

19 MR. PARKER: Yes, the ones on this chart.

20 THE COURT: The ones on the chart, the --

21 MR. PARKER: The 17,674 shares.

22 THE COURT: Okay.

23 MR. PARKER: Now I knew that Dr. Aurandt had had a  
24 dispute with Mr. Massey and, there were three other  
25 shareholders. Stella Pavloff Bull, Mr. Busby, and George

1 Pavloff. I knew that that had happened and that they had  
2 been awarded about nine percent of the company. And they  
3 had been issued share certificates. I was unaware that Dr.  
4 Aurandt had issued share certificates to himself, so I  
5 thought I could, if I got their proxies and they were the  
6 only share certificates that had been issued, I'd be able in  
7 effect to wrest control of STV Reading, Inc. from him. I  
8 was incorrect.

9 THE COURT: Isn't that the sum and substance of  
10 what Mr. Cole was arguing when he said --

11 MR. PARKER: No, he was arguing, he just argued  
12 that I thought they owned the company. I knew they didn't  
13 own the company. They only owned nine percent of it. But I  
14 thought I could get around voting the shares if he had not  
15 issued any shares to himself.

16 THE COURT: Oh, oh, oh. So the scenario is this.  
17 The company has 100 shares of stock that's  
18 authorized --

19 MR. PARKER: A thousand.

20 THE COURT: My hypothetical. A hundred shares of  
21 stock on authority. All right, I'll take 1,000 shares of  
22 stock authorized; 100 shares of stock are actually issued to  
23 Group A consisting of four people; but one person who is  
24 entitled to the 90 percent, however, has not received his  
25 stock yet. It hasn't been issued to him.

1           MR. PARKER: That's what I thought. That wasn't  
2 the case.

3           THE COURT: That's what you thought, yeah.

4           MR. PARKER: That's what I was hoping. Frankly, I  
5 was hoping that was the case.

6           THE COURT: But your thinking was -- Well let me  
7 finish my scenario here.

8           Your thinking was that going into a meeting if you  
9 had the proxies of the ten percent and the other 90 percent  
10 had not been issued, there was no 90 percent shareholder who  
11 could vote against you.

12          MR. PARKER: That's correct.

13          THE COURT: Therefore, you thought you could  
14 accomplish what you wanted to accomplish.

15          MR. PARKER: Yes. But at no time did I think I  
16 was representing the ownership, is what I'm trying to say.

17          THE COURT: The ownership of what?

18          MR. PARKER: The total entity.

19          THE COURT: Of STV Reading.

20          MR. PARKER: STV Reading, Inc. clearly owned the  
21 shares, clearly had the right to the economic benefit of  
22 those shares, clearly the people I had proxies for only  
23 would have gotten 9.9 percent of any economic benefit.

24          THE COURT: But you believed at that point in time  
25 that you had effective voting control.

1 MR. PARKER: That is correct.

2 THE COURT: But you knew it would only be  
3 temporary.

4 MR. PARKER: Absolutely. And as it turned out, I  
5 didn't have because as the share certificates will disclose  
6 to you, it was disclosed to me, clearly Dr. Aurandt had  
7 issued 1,000 shares originally to himself, canceled that  
8 certificated, and issued five more certificates -- four to  
9 the other people and one to himself. That is part of the  
10 settlement agreement arguments that were on his side that  
11 brought us to the table and caused us to settle, and  
12 frankly, that mistake cost me \$9,000 because I let him keep  
13 money that he owed me.

14 THE COURT: Well, this is quite a story. But  
15 having said that, having said that, I'm still going to  
16 permit Reading to put this evidence in in the way that they  
17 have it framed here subject, of course, to breaking it out  
18 into a separate page. Just like I said, Mr. Sifers.

19 I'm accepting it, just as I said before, as a  
20 record of what the stock records of the company reflect at  
21 the various times.

22 The question of previously approved by the  
23 Commission, I'll take that, the explanation that that's a  
24 word of art. That's all it is is a word of art, and it puts  
25 it in a time sequence. And counsel, Mr. Cole, your side is

1 free to put in a counter document if you want. All I have  
2 here is demonstrative evidence. I don't have --

3 MR. COLE: But Your Honor, again, it is not  
4 evidence, it is a compilation based on certain assumptions  
5 which we've been talking about this morning, and I think  
6 it's becoming clearer and clearer that there is at least a  
7 substantial question about the validity of their  
8 assumptions.

9 My only concern is -- Again, I have no problem if  
10 they put the chart in as is, but just take out those two  
11 lines, the subtotal of shares held by shareholders. Delete  
12 them. Don't rephrase them, don't do anything. Delete the,  
13 the subtotal of shares held by shareholders previously  
14 approved by the Commission and percentage ownership of  
15 shareholders previously approved. Those are conclusions  
16 that do not belong in an exhibit.

17 THE COURT: I don't understand that argument in  
18 terms of what the purpose of this exhibit purports to be.  
19 Because if you took it out, you'd have to certainly put an  
20 extensive footnote at the bottom to explain that the records  
21 actually reflect this, but that they're taken out for a  
22 reason that would conform with your theory.

23 MR. COLE: to the contrary, the subtotals, the two  
24 lines right in the middle. Subtotal of shares and  
25 percentage ownership, are not taken directly from these

1 documents. They are basically additions. They just total  
2 up these columns.

3 If those are removed so that there's no -- and if  
4 Mr. Sifers wants to break the page exactly where it is so he  
5 has Mr. Hyman on the top of page two and Dr. Aurandt on the  
6 top of page one, I have no objection to that. But those two  
7 columns are secondary and derivative, they don't reflect the  
8 evidence itself. They reflect the evidence as strained  
9 through a filter of certain assumptions.

10 THE COURT: I'm having trouble following that, Mr.  
11 Cole. Because my first question up front was, the shares  
12 issued October 15, 1991, does it reflect that on that date  
13 that 17,674 shares were issued to STV Reading, Inc. and  
14 everybody would say yes, that's true.

15 MR. COLE: Your Honor, no objection. What there  
16 is not a document is a document showing a subtotal of shares  
17 held by shareholders previously approved by the Commission,  
18 226,185, etc., etc. That line across there.

19 THE COURT: Wait a minute, you're too fast for me.

20 Oh, I see, the first column.

21 MR. COLE: The line in the first column, mid page.  
22 See those two lines?

23 THE COURT: Yes, I see.

24 MR. COLE: Subtotal of shares and percentage  
25 ownership. Those are not taken directly from any of the

1 evidence in here, any of the documents, a stock register,  
2 the ownership report. Those are derived by adding these  
3 columns down and getting to that number.

4 THE COURT: I'm going to ask Mr. Sifers.

5 Mr. Sifers, he points to the number 226,185.

6 That's in the first column, right?

7 MR. SIFERS: Yes.

8 THE COURT: I take it that that's the addition of  
9 the shares that are up above, to the top, starting with Dr.  
10 Henry Aurandt.

11 MR. SIFERS: Yes.

12 THE COURT: The title of that column says Form 316  
13 which is the short form, August 14, 1991 proposed.

14 MR. SIFERS: Yes.

15 THE COURT: So where is there a derivative in that  
16 number? I don't understand that.

17 MR. SIFERS: Because that number that's added up  
18 there, --

19 THE COURT: 226 --

20 MR. SIFERS: The 226,185 is just an addition of  
21 all the numbers above it.

22 THE COURT: Yeah, that's what I'm saying. So if  
23 you add the numbers up and this is what these numbers  
24 reflect, what was reported in Form 316, that's all that I'm  
25 going to extrapolate from that particular column.

1           MR. SIFERS: But it distinguishes, again  
2     editorially, between, it divides that definition in the term  
3     previously approved by the Commission, defines two separate  
4     classes of shareholders.

5           THE COURT: Well, I'm just running out of steam  
6     here on this one.

7           This document, it's been explained to me what it  
8     purports to represent. The methodology for its preparation  
9     has been explained. We've gotten a huge footnote from Mr.  
10    Parker explaining the history of STV Reading, Inc. and his  
11    activities with respect to that entity.

12          I see no reason to further delay this. I want to  
13    be sure that -- I mean I've made my requirements known to  
14    Mr. Sifers and he's going to accommodate me. We're going to  
15    come back this afternoon or tomorrow morning with a  
16    different exhibit. Essentially the same, but modified. And  
17    I'm going to be prepared to receive it into evidence over  
18    your objection.

19          Now if you want to come in with something similar  
20    to this, let me qualify what I'm saying with this statement,  
21    first. This is demonstrative evidence.

22          Now as demonstrative evidence that comes in as an  
23    exhibit, it's going to come in as demonstrative evidence.  
24    It's evidence in the case. But it's demonstrative evidence  
25    in the case. That meaning it is not in and of itself basic



1 information. It's derived from basic information.

2 MR. SIFERS: I understand, Your Honor.

3 THE COURT: That's all I'm receiving it as.  
4 That's it.

5 MR. SIFERS: You're reserving ruling until --

6 THE COURT: Right, until the modifications are  
7 made this afternoon or tomorrow. And as I say, you are free  
8 to submit a counter, you said yourself -- Well, I'm sorry.  
9 I don't mean to say that.

10 The point is that you do have the opportunity to  
11 submit a counter demonstrative document that presents it as  
12 you see it.

13 MR. COLE: Thank you, Your Honor.

14 THE COURT: How about Exhibit 17-A. I'm  
15 suggesting a marking of 17-A on the pages that show STV  
16 Reading, Inc. certificates. You say it's got a lot of blank  
17 pages. Can you take the blank pages out?

18 MR. HUTTON: I think it's probably appropriate to  
19 leave them in. For purposes of completeness. They're not  
20 blank in the sense that -- They contain numbers of the share  
21 certificates, and there's a lengthy blank section in the  
22 middle, and then there's a filled out share certificate at  
23 the end.

24 THE COURT: Oh, I see. It's like a big, it's like  
25 noise or something.

1           MR. HUTTON: It's a copy of the ledger, and for  
2 completeness I think it's probably appropriate.

3           THE COURT: I see. Well, do you want to do that,  
4 or if you want to do it the right way you should probably  
5 draw a line or something. Nothing's been -- In other words,  
6 I don't want the inference being left that something was  
7 excised.

8           MR. HUTTON: I think it will be clear when you see  
9 it.

10          THE COURT: It will be clear?

11          MR. HUTTON: Yeah.

12          So at this time I'd like to have that identified  
13 as Reading Exhibit 17-A, and I offer it into evidence.

14                               (The document referred to was  
15                               marked for identification as  
16                               Reading Exhibit 17-A.)

17          THE COURT: Reading Exhibit 17-A, identified. The  
18 reporter will note this document as it has been identified  
19 for counsel for Reading as Reading Exhibit 17-A for  
20 identification.

21          Do you want to have an opportunity to review this?

22          MR. COLE: Yeah, if I could, Your Honor, maybe at  
23 the lunch break.

24          THE COURT: We'll consider moving it in at the  
25 time we receive the modified version of 17.

1           MR. HUTTON: Your Honor, if there are any  
2     authenticity questions, Mr. Parker is here now. I'm not  
3     sure he's going to be available after lunch, so --

4           THE COURT: I can't put Mr. Cole through the  
5     burden of -- I mean if Mr. Parker can tell us, has he  
6     reviewed 17-A, sir?

7           MR. PARKER: Yes, I have, Your Honor.

8           THE COURT: On what basis would you be able to  
9     tell us that it's true and accurate? What's your  
10    familiarity with regard to it?

11          MR. PARKER: These were the identical records that  
12    were presented to me at my first settlement conference with  
13    Dr. Aurandt after I had voted the share certificates at  
14    those two meetings that we described. It proved that he had  
15    originally issued stock certificate 25 to himself for 1,000  
16    shares; and he had canceled that certificate and issued the  
17    original, or what are certificates 1, 2, 3 and 4 to the  
18    individuals I described, and stock certificate number 5 to  
19    himself for the 906.6 shares.

20          THE COURT: As I look on the back, the last time  
21    on this packet is certificate number 25. Yeah, I see, it  
22    says 1,000 shares to Dr. Aurandt and his wife, original  
23    issue. What's the date on that? January 1, 1983?

24          MR. PARKER: That's correct, Your Honor.

25          THE COURT: Is that right, Mr. Hutton?

1 MR. HUTTON: Yes.

2 THE COURT: Be sure that that '83 date is clear  
3 for the Reporter's copy. Then you said that he canceled  
4 this --

5 MR. PARKER: He canceled that certificate and  
6 issued certificates 1 through 5.

7 THE COURT: Same packet.

8 MR. PARKER: Same packet.

9 THE COURT: Who did he issue those to -- the first  
10 one is a specimen. Yes, okay, I see what you're saying.  
11 Okay. He issued 1 through 5.

12 MR. PARKER: And that was in response to the court  
13 order, that he was ordered to do it. He did it in 1986 and  
14 then he issued, or '85 and '86, I guess.

15 THE COURT: He gave himself 906.6 shares.

16 MR. PARKER: That is correct.

17 THE COURT: As one of the five, the fifth  
18 certificate.

19 MR. PARKER: That is correct.

20 THE COURT: Is there a corporate record that shows  
21 there was a cancellation to certificate 25?

22 MR. HUTTON: That's Exhibit 5, Your Honor. I'm  
23 sorry, certificate five.

24 MR. PARKER: If you look at certificate five at  
25 the bottom there, you see certificate 25. So it reflected

1       that --

2               THE COURT:  It says certificate 25 is voided.

3               MR. PARKER:  Yeah.

4               THE COURT:  Usually you do that with a corporate  
5 resolution, don't you?

6               MR. PARKER:  I would indicate that I don't  
7 remember -- these weren't the only things presented to me at  
8 that time, but it was presented to me in Mr. Linton's  
9 office, and Mr. Linton --

10              THE COURT:  Dr. Aurandt, he had the control, after  
11 all was said and done he had the corporate control so he  
12 could do what he wanted.

13              MR. PARKER:  Absolutely, Your Honor.

14              MR. COLE:  But Your Honor, am I correct that Mr.  
15 Parker earlier testified that Mr. Parker didn't know that  
16 until August of 1992?

17              THE COURT:  Yeah, he made that clear himself.  I  
18 think he made that clear.

19              MR. PARKER:  Yes, Your Honor.

20              THE COURT:  You thought you were going to vote  
21 yourself as president and be able to vote those shares of  
22 STV for purposes of the business of Reading, Inc., you  
23 certainly thought that you had the voting control at that  
24 time.

25              MR. PARKER:  I think it would be more, I hoped

1     that Dr. Aurandt had only issued four certificates and  
2     hadn't gone through the other corporate formalities. I  
3     found that in fact he had gone through the corporate  
4     formalities and he was at all times in control.

5             THE COURT: Sometimes it helps to have lawyers  
6     around.

7             (Laughter)

8             THE COURT: On some occasions.

9             Okay. I want to move along. It's ten minutes of  
10    11:00. This is twenty minutes longer than I wanted to spend  
11    on this. I'm sure Mr. Sifers will have me come back to it  
12    when he's ready.

13            What's the next item of business we have?

14            I'm leaving this the way it is. I've gotten Mr.  
15    Parker's explanation, Mr. Cole should have an opportunity to  
16    certainly look through these documents and be sure that he's  
17    satisfied that there isn't some other irregularity, and if  
18    we lose Mr. Parker, that's the breaks of the game.

19            MR. HUTTON: Okay.

20            THE COURT: Chances are it's going to come in.

21            MR. HUTTON: Then I would ask that we take a brief  
22    break and then I gear up for the Cross-Examination of Mr.  
23    Gilbert.

24            THE COURT: Before we go off to do that, what  
25    about Mr. Kase? I've got a speakerphone here. Again, it's

1 up to you all. But if we get Mr. Gilbert on I want to  
2 finish Mr. Gilbert.

3 MR. HUTTON: The plan is to start Mr. Gilbert  
4 after the break and complete Mr. Gilbert today. If we have  
5 time today we might be able to deal with Mr. Kase, but I  
6 have to say I don't have the exhibits with me, and I haven't  
7 really thought that far ahead.

8 MR. COLE: I think we're going to have to come  
9 back tomorrow anyway for Mr. Boothe, right?

10 MR. HUTTON: Yeah.

11 MR. COLE: I don't know about you, but I doubt Mr.  
12 Boothe is going to take the whole day, so I think we can do  
13 Kase and Boothe tomorrow, and then, I think that wraps it,  
14 doesn't it?

15 MR. HUTTON: It would be my preference to do both  
16 of them tomorrow.

17 THE COURT: That makes sense to me. I want to  
18 have continuity with Mr. Gilbert. I don't want you to start  
19 other things in the middle of it.

20 Okay, let's take a recess until ten minutes after  
21 11:00 then.

22 (Whereupon, a recess was taken from 10:53 a.m. to  
23 11:10 a.m.)

24 THE COURT: On the record.

25 Before we move into the examination of Mr. Gilbert

1 I've got, there's a couple of things -- I'm talking about  
2 some Adams exhibits. We'll have to do this in Mr. Bechtel's  
3 absence, and I don't like this.

4 Your exhibits, Mr. Cole, Adams Exhibits 13, 14,  
5 and 15 were marked for identification. These are the  
6 minutes of meetings that have been used and referred to  
7 pretty extensively, and they were never moved into evidence.

8 MR. COLE: I'll offer them, now, that's for sure.

9 MR. HUTTON: Your Honor, I do object on this  
10 basis. Exhibits 13 -- Which is 13?

11 THE COURT: Thirteen are the minutes of the  
12 shareholder's meeting plus an index of the meeting dates.

13 MR. HUTTON: All right. In each case the exhibits  
14 contain copies of minutes of several meetings of the  
15 directors or the shareholders of Reading Broadcasting, Inc.  
16 The questioning tended to focus on one or two meetings  
17 within each packet, and in looking through the rest of the  
18 material in each exhibit, it appears to me that there's a  
19 lot of material that's included in there as far as I can for  
20 purposes of airing dirty laundry because of the disputes  
21 within the company that were ongoing at that time.

22 I think we ought to only allow the introduction of  
23 the exhibits that were the subject of testimony by a witness  
24 in the case.

25 THE COURT: One of them is, 13, for example, 138



1 pages; 98 pages; 141 pages. These are pretty extensive  
2 documents.

3 MR. COLE: Well, Your Honor, in terms of  
4 completeness of the record I see no harm in putting them in.  
5 They're documents which we obtained from RBI and therefore  
6 presumably they are authentic and they are what they purport  
7 to be. They are all serially paginated, so to break up the  
8 set could create some confusion in the record.

9 Obviously to the extent there has been no Cross-  
10 Examination about certain items, certain minutes, the  
11 probative value of any particular minutes that have not been  
12 subject to Cross-Examination will be limited accordingly.  
13 They've been copied, exchanged, and they're there. I see no  
14 reason not to let them all in as is.

15 THE COURT: Well Mr. Mattmiller, there was some  
16 time spent with these too with Mr. Mattmiller.

17 MR. HUTTON: Well he just authenticated the ones  
18 that he had written, or had attended.

19 THE COURT: Right, but I just remember spending  
20 that much time on it.

21 I hate to go back and spend more time requiring  
22 excerpts be taken out. I didn't see anything that was in  
23 them that was that bad. I mean like I said the other day,  
24 it's corporate democracy in action. Nobody's going to be  
25 taken aback by that.

1 I'm going to -- You've got a good point, but I  
2 think that should have been, when we had Mr. Mattmiller on  
3 the stand and we were really looking at them, maybe we  
4 should have focused on them a little bit more.

5 MR. HUTTON: Your Honor, in fairness to me I think  
6 it has to be pointed out that I only received these in the  
7 course of Cross-Examination and I didn't have a chance to --  
8 I didn't know where counsel for Adams was going with them.  
9 I was willing to give them the benefit of the doubt and  
10 assume that they were actually going to be used for Cross-  
11 Examination. It turns out they by and large were not used  
12 for Cross-Examination, just little snippets here and there.

13 As far as I can tell the reason for including the  
14 rest of them is in keeping with Adams' tradition of airing  
15 our dirty laundry.

16 MR. COLE: I take exception to that  
17 characterization, Your Honor. We don't want to engage in  
18 discussions --

19 THE COURT: I'm just not going to take, at this  
20 stage I just don't see the purpose for taking the time.  
21 There is relevant evidence there. To start deciphering as  
22 to where questions were asked, where questions were not  
23 asked, what might be characterized as dirty laundry, what  
24 might be considered background information, this type of  
25 thing. I'm going to exercise my discretion and deny the

1 objection. I'm not critical of the objection, but I'm going  
2 to deny it.

3 So these -- 13, 14, and 15, those are Adams  
4 Exhibits 13, 14, and 15 are received in evidence today,  
5 January 12th as Adams Exhibits 13, 14, and 15.

6 (The documents referred to,  
7 having been previously marked  
8 for identification as Adams  
9 Exhibits 13, 14, and 15, were  
10 received in evidence.)

11 MR. COLE: Thank you, Your Honor.

12 THE COURT: The only thing else I have in my  
13 listing is, I haven't looked at the document itself, but  
14 Adams Exhibit 10. I have it identified. This is the logs  
15 for April 18th.

16 MR. COLE: I'm showing that as received in my  
17 notes, Judge.

18 THE COURT: Is that a notebook?

19 MR. COLE: It is a single log.

20 THE COURT: Off the record a minute.

21 (Discussion off the record)

22 THE COURT: On the record.

23 Do you have any record of this, Mr. Sifers or Mr.  
24 Hutton?

25 MR. HUTTON: Our records are consistent with Mr.

1 Cole's, Your Honor.

2 THE COURT: All right, I'm going to assume. If  
3 there is any doubt on the record, it is received into  
4 evidence, and it appears that it clearly has been received  
5 into evidence on the 6th of January.

6 That's all I have at this time.

7 You don't have any written testimony for Mr.  
8 Gilbert --

9 MR. COLE: We do have, Your Honor. It's Adams  
10 Exhibit No. 1.

11 Would you take the stand, sir?

12 THE COURT: I have seen this document.

13 Would you raise your right hand, sir?

14 Whereupon,

15 HOWARD N. GILBERT

16 having been first duly sworn, was called as a witness herein  
17 and was examined and testified as follows:

18 THE COURT: Please be seated.

19 MR. COLE: Are you ready, Your Honor?

20 THE COURT: I sure am.

21 DIRECT EXAMINATION

22 BY MR. COLE:

23 Q Mr. Gilbert, could you please state your name for  
24 the record?

25 A Howard N. Gilbert.

1 Q What is your address?

2 A 180 East Pearson, P-E-A-R-S-O-N, Street, Chicago,  
3 Illinois 60619.

4 Q Mr. Gilbert, I have provided to you a copy of a  
5 document which has previously been received into evidence in  
6 this case, the cover page of which bears the title, Adams  
7 Communication Corporation Exhibit 1, Information Concerning  
8 Adams Communication Corporation.

9 Do you have that there?

10 A Yes, sir.

11 Q Could you please review that? And let me know  
12 when you're finished reviewing it.

13 THE COURT: While he's reviewing that, while I did  
14 mention that I hadn't seen written testimony of the witness,  
15 I was not referring to this. I have, of course reviewed  
16 this material that was exchanged, but there is no real  
17 narrative, the traditional narrative type of written  
18 testimony.

19 MR. COLE: That's correct, Your Honor.

20 (Pause)

21 THE COURT: I didn't want Mr. Gilbert to think  
22 that I hadn't been paying attention to his hard work here.

23 THE WITNESS: Okay.

24 BY MR. COLE:

25 Q Mr. Gilbert, on page 11 which is the final page of

1     that exhibit, there is a signature there. Is that your  
2     signature?

3           A     Yes, it is.

4           Q     And is this your testimony?

5           A     Yes.

6           Q     Is there any need for any changes that you see?

7           A     I didn't notice any. Maybe it could be a little  
8     more current, but basically okay.

9           MR. COLE: Your Honor, on that basis the witness  
10    is available for Cross-Examination.

11           THE COURT: Mr. Hutton?

12           MR. HUTTON: Thank you.

13                   CROSS-EXAMINATION

14           BY MR. HUTTON:

15           Q     Mr. Gilbert, I'd like you to refer to the  
16    ownership chart on page one of Exhibit 1.

17           A     Yes, sir.

18           Q     I'd like you to identify the principals of Adams  
19    Communications who are also parties to the application of  
20    Monroe Communications for Channel 44 in Chicago.

21           A     Robert L. Haag, Howard N. Gilbert, Wayne J.  
22    Fickinger, Manfred Steinfeld, A.R. Umans, Calvin I.  
23    Leibovitz, Talmadge Hill, Milton Podolsky.

24           Q     And can you give me an approximation of the  
25    percentage ownership interests of those persons in Monroe?

1           A     This would be approximate, and I'm not sure how  
2 much -- There were other people who were involved in Monroe.

3           Q     I understand.

4           A     I think Robert Haag had 36 percent. I think I had  
5 12 percent. I think Fickinger and Steinfeld -- Fickinger  
6 probably had about 10, Steinfeld, I don't know, and Umans,  
7 I'm not sure. Say eight percent.

8           Q     Apiece?

9           A     Yes, sir. Each case is apiece. Leibovitz,  
10 probably around there. Talmadge Hill probably had a little  
11 bit less. We upped people because there were other  
12 shareholders that weren't in this one. And Milton Podolsky  
13 I would guess five percent, but I just don't remember.

14          Q     When the Monroe Communications application was  
15 filed, well, strike that.

16               What was the purpose of the Monroe Communications  
17 application?

18          A     Monroe Communications was filed -- Can I give a  
19 discursive answer to your question?

20          Q     Yes.

21          A     I'm very bad on years so my years aren't very  
22 meaningful but I can give you a chronology in terms of  
23 sequence.

24               A number of years ago in the city of Chicago,  
25 Channel 44 was broadcasting. They were broadcasting at the

1 time, they switched from being an ordinary station to a pay  
2 TV station that was also broadcasting pornography after  
3 about 9:00 o'clock at night. Sometime at a time when young  
4 people were still up, although frankly they were up all  
5 night for this station.

6 And Mr. Shook, incidentally, who lives four blocks  
7 from where all of us live, was aware of it. It was a little  
8 bit after the time, the young kids in his neighborhood used  
9 to watch it, when he was already into college.

10 Anyhow, there was a writer in Chicago at the time,  
11 Ed Darby, who was not the conventional media critic, but was  
12 somebody who was analytic. He became very exercised over  
13 the fact that a channel was removed from the use of the  
14 public and you had to pay to get it.

15 Now Robert Haag who is the leader of all of this,  
16 is an individual with extensive experience in television.  
17 He co-founded a company called Alberto Culver which markets  
18 VO5 products and is still around today. It's a company with  
19 sales in excess of \$2 billion, and was heavily devoted to  
20 television. He was totally exercised over the fact that a  
21 channel that belongs to the public you now had to pay for.  
22 That was the first issue, that exercise.

23 He kept hounding me, Howard, we've got to do  
24 something about this. I think there's nothing you can do  
25 about it. The FCC is what it is. Nobody's ever been



1       successful in really moving the FCC. Go away.

2                Anyhow, he's my closest friend and he's a very  
3       strong guy. He teamed up with Fickinger. Wayne Fickinger  
4       is the former president, ultimately, of J. Walter Compton  
5       Internationally, and both of these people are self-made men  
6       which has to do in part with their attitude about things.  
7       And they began to pound me about it.

8                I said look, there's nothing I can do, but let me  
9       go see Frank Mullen. He's a lawyer that we've worked with  
10      in Washington for years. He's an extremely capable lawyer.  
11      He's got a background in public interest law, as I do, and  
12      maybe the two of us can get through it. I'd worked with  
13      Frank Mullen both, he was a former president of the Bar, I  
14      don't know if people all know who he is or not.

15               THE COURT: Yes. He's got a fine reputation.

16               THE WITNESS: Yeah.

17               Frank Mullen had represented our clients. I got  
18      involved with Frank Mullen initially in the WFMT case which  
19      you probably don't know about which was a case that stopped  
20      WFMT, a public service station in Chicago, from being sold  
21      to the Chicago Tribune. Then he represented a number of our  
22      media clients, and then he ultimately got me involved in a  
23      case in Jackson, Mississippi where I was a corporate lawyer,  
24      a pro bono case involving a station which had been blipping  
25      out the name of Martin Luther King whenever it appeared. It

1 was kind of a famous case. The FCC took their license away.

2 Anyhow, we went to Mullen. Mullen said, I don't  
3 know Howard. Why don't you go back and see if you can come  
4 up with a theory and come back and see me in three weeks.

5 I said okay, and I came back. We were at this  
6 point trying to get the FCC to do something. We had no idea  
7 at this point that we were going to have to get into a  
8 comparative hearing.

9 So I come back in three weeks with a theory and he  
10 says, well, the only way this is going to work is we're  
11 going to have to get into a comparative hearing. It's going  
12 to be very expensive. These are my fees and so on. I said  
13 I don't know, I don't know if we can put up that kind of  
14 money.

15 I went back, and people were reluctant to do it.  
16 They were willing -- Everybody here was sophisticated.  
17 Three of us had once won a station, an initial grant of a  
18 station -- Haag, Umans and I -- in a comparative hearing  
19 against two competitors, and even then it cost us a  
20 significant sum of money.

21 I went back and they said they really didn't feel  
22 that we could pay these kinds of fees, but there was  
23 somebody else I could talk to.

24 Well, the other communications lawyer with whom  
25 I'd worked with for a number of years was Gene Bechtel. So

1 I went over to Gene Bechtel and I said look. Here is what  
2 it's is, here's what I think it is. Gene says, Howard, why  
3 don't you go back and think about it for two weeks and come  
4 see me again, see if the theory is going to hold up and  
5 everything, and we'll do some research.

6 Came back to Gene Bechtel and we got together with  
7 what -- I had been working with him at Arrent Fox. He had  
8 just moved over to Bechtel & Cole, and we retained Bechtel &  
9 Cole to handle the case.

10 BY MR. HUTTON:

11 Q So I take it at that time --

12 THE COURT: I know you said years are not your  
13 strong point. Maybe, Mr. Cole, can you tell us what year it  
14 was?

15 MR. COLE: 1982.

16 THE COURT: Thank you.

17 MR. COLE: That the application was file. The  
18 Monroe application was filed in, I believe it was fall of  
19 1982. My recollection is I met Mr. Gilbert in mid 1982.

20 THE WITNESS: But I'd known Mr. Bechtel for maybe  
21 ten years or more before that.

22 THE COURT: When you mentioned Arrent Fox I had  
23 that feeling. I just wanted to get it --

24 THE WITNESS: Yeah.

25 BY MR. HUTTON:

1           Q     So is it true that at the time the application was  
2     filed you were personally familiar with the existing  
3     programming on Channel 44?

4           A     Obviously.

5           Q     And that's true also of the other principals of  
6     Monroe Communications?

7           A     Yes.

8           MR. HUTTON: I'd like to have marked as Reading  
9     Exhibit 19 a copy of the Joint Request for Approval of  
10    Settlement Agreement, Dismissal of Monroe Application, and  
11    Grant of Video 44 Application filed with the FCC on October  
12    28, 1992.

13           THE COURT: The Reporter will mark that.  
14                 How many pages in that document?

15           MR. HUTTON: It's not paginated. I can walk  
16    through it with you.

17                 There is an 11 page pleading, I'm sorry. There's  
18    an eight page pleading followed by a page marked Attachment  
19    1. Following that is a settlement agreement entered into on  
20    October 8, 1992. That settlement agreement consists of 11  
21    pages of text and five pages of signature pages. A two-page  
22    Schedule A; a two-page Schedule B; a one-page Schedule C; a  
23    one-page Schedule D; a one-page Schedule E; a six-page  
24    escrow agreement, and attached to that are, again, the  
25    Schedules -- Well, a two-page Schedule A, a two-page

1 Schedule B, a two-page Schedule C. Following that is a page  
2 marked Attachment 2. That includes a two-page declaration  
3 of Howard Gilbert. Attached to that is a page entitled  
4 Attachment 3, and that includes a two-page declaration of  
5 Burt I. Harris, Sr. Following that is a two-page  
6 certificate of service.

7 Now I should note in the copy that is submitted  
8 here, page two of the pleading is missing, and that appears  
9 to have been missing from the Commission's files.

10 THE COURT: All right. You can see the benefit of  
11 consecutively marking these pages. I think we can deal with  
12 this one, but -- take it from there. This is identified a  
13 Reading Exhibit 19 for identification.

14 (The document referred to was  
15 marked for identification as  
16 Reading Exhibit No. 19.)

17 BY MR. HUTTON:

18 Q Mr. Gilbert, I'd like you to turn to Attachment 1  
19 and specifically to the Channel 44 settlement agreement  
20 entered into on October 8, 1992. Do you have that in front  
21 of you?

22 A I'm sure I have it. I have to find it.

23 (Pause)

24 A Does it say 18083970 at the bottom in the word  
25 processing --

1 Q Yes.

2 A Okay.

3 Q At the time this agreement was entered into, is it  
4 correct to say that the FCC had granted the application of  
5 Monroe Communications?

6 (Pause)

7 A I think so, but I'm not absolutely certain. We  
8 knew we were going to get it at any rate, I just don't  
9 remember.

10 Q In other words, you had won the case but it had  
11 not become final?

12 A I just don't remember. In layman terms, if I was  
13 a layman, I would probably answer your question yes. As a  
14 lawyer, I'm just not certain. I don't remember.

15 THE COURT: Do you want to get confirmation from  
16 Mr. Cole on this in the form of a stipulation? This is not  
17 a controversial fact is it?

18 THE WITNESS: I wouldn't controvert that, Your  
19 Honor.

20 MR. HUTTON: Can Mr. Cole confirm?

21 MR. COLE: I believe as of September 1, 1992 the  
22 record of the Commission will show that the Commission had,  
23 prior to that date, granted the application of Monroe  
24 Communications Corporation. But that grant had not become  
25 final because there was an appeal pending.

1 THE WITNESS: That sounds better.

2 THE COURT: All right. For these purposes, that's  
3 fine.

4 MR. HUTTON: All right.

5 BY MR. HUTTON:

6 Q Section 1 of the agreement calls for Monroe to  
7 withdraw and requests dismissal of its application with  
8 prejudice before the Commission, and to withdraw its  
9 opposition to Video 44's application for renewal of its  
10 license, is that correct?

11 A The document says that.

12 Q And in exchange, it appears that in section five  
13 or paragraph five, whichever, Video 44, which was the  
14 incumbent licensee, was agreeing to make certain payments to  
15 Monroe, the first one being \$11,666,667 plus interest  
16 thereon, to be paid within ten days of the date on which an  
17 order by the Commission approving the settlement and  
18 dismissing Monroe's application with prejudice shall become  
19 a final order. Is that correct?

20 A Everything in the document is correct. I signed  
21 the document, and I think I say later somewhere about  
22 documents being correct that I've signed. Everything that  
23 I've signed I've read and swear to its correctness. All of  
24 this is correct.

25 Q Okay. So there was an initial payment of \$11

1 million plus dollars set forth in paragraph five. Paragraph  
2 six provides for an additional payment of \$6 million,  
3 \$6,009,757 plus interest calculated on a lesser amount to be  
4 paid within ten days of the date on which an order by the  
5 Commission granting Video 44's license renewal application  
6 without any materially adverse conditions shall become a  
7 final order.

8 That's correct also?

9 A The entire document is correct. I will stipulate  
10 immediately that everything in that document is true and  
11 correct. I signed it. Everything I read and sign is  
12 correct in its entirety.

13 Q All right.

14 Now as to the payments set forth in there,  
15 approximately what was your portion received?

16 THE COURT: Well what was the total amount of the  
17 settlement? Do you have a figure that he can read to set  
18 the stage here?

19 THE WITNESS: I received a whopping amount of  
20 money.

21 THE COURT: I'm trying to help you put it in  
22 context. If you can come up with a round figure, we can go  
23 from there.

24 MR. HUTTON: My calculator indicates, Mr. Gilbert,  
25 that without interest the total payment was \$17,676,424.



1 Does that sound correct?

2 THE WITNESS: It's in the range. In terms of what  
3 you're trying to make as a point, we received a huge sum of  
4 money. For me, especially, it was a very large sum of  
5 money.

6 BY MR. HUTTON:

7 Q Approximately how much of that did you receive?

8 A Approximately 12 percent of the proceeds after  
9 legal expenses and other expenses, yes.

10 Q So approximately how much money was that?

11 A I think it was about \$2.8 million, \$3 million,  
12 somewhere in that range.

13 Q Why did Monroe decide to settle the case?

14 A One of the reasons, the positive reason aside from  
15 getting rid of pornography, which became a serious issue for  
16 us, and getting pay TV off the air, and I'll talk to this  
17 before I finish the answer, was we were interested in  
18 Hispanic television. Mr. Fickinger at the time was probably  
19 the foremost expert in the country on Spanish television.  
20 It's a different world than today.

21 In the '70s nobody thought much about Hispanic  
22 television for a number of reasons, not the least of which  
23 Hispanics are a lesser kind of people in many people's eyes.  
24 And J. Walter Thompson, he had started a group of people  
25 which focused on the market.

1           MR. HUTTON: Your Honor, I'd move to strike this  
2 as non-responsive. I asked why the company decided to  
3 settle the case, and I'm getting an exposition on Hispanic  
4 television.

5           MR. COLE: Your Honor, he asked a why question,  
6 he's getting a why answer.

7           THE COURT: I'm going to let the witness go on  
8 this. He's hitting the points and he's getting to the  
9 bottom line fast enough, so -- I'm taking this as  
10 background, obviously, but we'll get there.

11          THE WITNESS: So one of the reasons we would go  
12 ahead is we were going to have a Hispanic station.

13           One of the shareholders who later dropped out  
14 because of the problems of the case, was Arthur Velazquez  
15 who is generally regarded as the leading Hispanic citizen  
16 of the city of Chicago. He serves on a number of boards  
17 including Ameritech and so on and is a trustee of the  
18 University of Notre Dame and so on.

19           Anyhow, we had established extensive intent and  
20 done a lot of work towards putting a Hispanic station on the  
21 air.

22           As we got -- And we'd been working with Telemundo  
23 because Univision was totally locked into a long term  
24 contract with Channel 26.

25           As we got towards the end, and at that time there

1     were only possibilities that appeared to us of two TV  
2     stations being carried, because the market wasn't doing very  
3     well in those days. Telemundo began to go into bankruptcy  
4     and we were terrified as to what was going to happen. We  
5     had lost our relationship with Telemundo. We approached  
6     Univision. Univision wouldn't talk to us. They had this  
7     long term agreement, and we didn't see any way out in terms  
8     of what we were trying to do.

9             That's why we settled.

10            BY MR. HUTTON:

11            Q     Was the existing station operating as a Telemundo  
12     affiliate?

13            A     Yes.

14            Q     How long had they been a Telemundo affiliate?

15            A     Well, after we filed our case, somewhere down the  
16     line they stopped the porno and they stopped with charging  
17     and they went to Telemundo.

18            Q     Do you have any sense of how long before you  
19     settled?

20            A     Several years.

21            Q     So that station had an extensive track record with  
22     Telemundo, correct?

23            A     The word extensive is vague, but they had been  
24     there a long time in terms of television programming and  
25     radio programming and they were, yes, a channel outlet in

1 Chicago.

2 Q If the existing licensee was willing to pay over  
3 \$17 million to settle the case, didn't that suggest to you  
4 that they were confident that the station was not going to  
5 lose its programming source?

6 MR. COLE: Objection. It calls for a conclusion.  
7 No foundation.

8 THE WITNESS: But I'll answer it if you want me  
9 to.

10 THE COURT: In light of the witness' response,  
11 I'll overrule the objection.

12 THE WITNESS: Sorry. The answer is, and this may  
13 seem strange to you. Irving Harris is worth over \$800  
14 million. \$18 million to the Harris Group is not a lot of  
15 money. It was to us, but our people are also financially  
16 very strong. And that he would pay to clear his name of the  
17 fact that he'd been transmitting pornography and restore his  
18 name in the Chicago community, it was not a big price.

19 Mr. Harris has given probably \$40 million or more  
20 to Yale University. I'm affiliated with the University of  
21 Chicago, substantially in excess of \$20 million, and so on.  
22 So it wasn't -- Their values are different than our values.

23 BY MR. HUTTON:

24 Q Well, he was operating the TV station as a for-  
25 profit business, isn't that correct?

1           A     We had done a lot of damage to Mr. Harris'  
2     reputation.  People were saying that he had been  
3     transmitting pornography.  And he was a cause celeb of sorts  
4     in the city of Chicago.  Settling with us, he was able to  
5     say it had never definitively been found that he lost the  
6     station because of transmitting pornography.

7           Q     Did he subsequently sell the station to someone  
8     else?

9           A     Recently he did.  Last year or two.

10          Q     During the course of the Monroe litigation did  
11     Monroe or any representative of Monroe conduct discovery to  
12     obtain the contents of the existing licensee's public  
13     inspection file?

14          A     Of course.

15          Q     And did that provide relevant information for  
16     purposes of the comparative renewal proceeding?

17          A     Of course.

18          Q     Were you aware that every television station has  
19     to make its public inspection file available to interested  
20     parties?

21          A     Yes.

22                 MR. HUTTON:  I'd like to have marked as Reading  
23     Exhibit 20 a copy of a document that was produced by Adams  
24     in discovery.  It was an unsigned letter on the letterhead  
25     of Farmer, McGuinn, Flood, Bechtel & Ward dated January 10,

1 1983.

2 THE COURT: The Reporter will mark that document  
3 as Reading Exhibit 20 for identification.

4 (The document referred to was  
5 marked for identification as  
6 Reading Exhibit No. 20.)

7 BY MR. HUTTON:

8 Q Mr. Gilbert, this letter is addressed to you. Are  
9 you familiar with this letter?

10 A Yes.

11 Q Was it signed by both you and Mr. Bechtel?

12 A Yes.

13 Q Was it signed at or around the time the Monroe  
14 application was filed?

15 A I don't remember when the Monroe application was  
16 filed, but it's a signed letter and it establishes the terms  
17 of our economic relationship.

18 Q Were there ever any amendments or modifications to  
19 this letter?

20 A Not that I remember.

21 Q Were you the party that negotiated the economic  
22 terms for Monroe Communications?

23 A What do you mean by negotiated?

24 Q Well, the letter lays out certain payment  
25 provisions and, well maybe there wasn't a negotiation.